

GOVERNMENT OF TELANGANA

ABSTRACT

Higher Education Department-Private Un-aided Colleges – Implementation of Hon'ble High Court Order in W.P.No.30949/2010, Dt: 29-2-2012 & in WP No.33372/2010, Dt;25-4-2012, in WP No.33585/2010 Dt;25-4-2012 and in WP No.19090/2011, Dt:21-6-2012-Regularization of the services of the four (4) employees in the vacancies available in their respective colleges with effect from the date of the judgment –Permission- Accorded – Orders - issued.

HIGHER EDUCATION (CE/A2) DEPARTMENT

G.O.RT.No. 269

Dated:13.11.2014.

Read the followings:-

1. High Court order dated:29-02-2012 in WP No.30949/2010
2. High Court orderdt:25-4-2012 in W.P.No.33372/2010.
3. High Court order dt:25-04-2012 in WP No.33585/2010.
4. High Court order dt:21-6-2012 in WP No.19090/2011.
5. High Court order dt:04-11-2013 in CC Nos.1744,1745 &1746 of 2012.
6. From the CCE Lr.No.1204/Admn.IV-1/2011, dated:18-04-2013.
7. From the CCE Lr.No.145/Admn.II-2/2012, dated:29-07-2013.
8. From the Addl. Advocate General, O/o AG, Telangana, Hyd., Lr No.202/2014, Dt:30.10.2014
9. From the CCE, Telangana, Hyd., Lr. Rc No 28/Admn V-1/2011, Dt: 31.10.2014.

ORDER:-

The Commissioner of Collegiate Education, Telangana State, Hyderabad in the letter 9th read above has informed that in 1st to 4th read above, the following four (4) employees have filed W.P. in the Hon'ble High Court of Andhra Pradesh. The Hon'ble Court have made orders as follows:-

Sri Mohd Naseeruddin Farooqui, Lab Boy, Mumtaz College, Hyderabad

He was appointed as lab boy by the management of the college with out prior permission of the Department on 27.7.1991 He has studied upto SSC. He has filed a writ petition No 30949/2010 in the Hon'ble High Court for regularization of Services . The Hon'ble High Court on 29.2.2012 made the following order:-

“The petitioner was selected by the selection Committee consisting of Government nominee and he was permitted to sign in the permanent register maintained by the management of the college for the academic year 1991, 1992 1993 and 1994. Learned Council for the petitioner has relied on the judgment reported in State of Karnatka VS M L Kesari wherein the Apex court observed as follows.

“ The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in Uma Devi) without the protection of any interim order of any court or tribunal , in vacant posts , possessing the requisite qualification, are entitled for consideration for regularisation ”.

The Apex court further observed as follows

“If the employee who have completed ten years service and do not possess the educational qualifications prescribed for the post , at the time of their appointment they may be considered for regularization in suitable lower posts”.

Contd..2.

Mohd Hyder Ali, Electrician, Mumtaz College, Hyderabad

He was appointed by the management of the college without permission of the Department on 23.8.1993 with SSC and ITI qualification. He filed Writ petition No 33372 of 2010 in the Hon'ble High Court . The Hon'ble High Court in its orders dated 25.4.2012 made the following order:-

“This writ petition is squarely covered by the order of this court passed in WP No 30949 of 2010 dated 29.2.2012 which is as follows:-

“ Having regard to the facts and circumstances of the case and in the light of the above said judgment of the Apex court, the respondents are directed to regularise the services of the petitioner. It is made clear that it is for the respondents to take appropriate steps to obtain the approval of the Director of Collegiate Education and complete all the formalities within a period of two (2) months from the date of receipt of a copy of this order.

Syed Murtuza Ali, Lab boy, Mumtaz College, Hyderabad

He was appointed by the management of the college without taking permission of the Department on 1.11.1993 with BA Qualification . He filed WP No 33585/2010 in the Hon'ble High Court. The Hon'ble High Court on 25.4.2012 made the following order:-

“This writ petition is squarely covered by the order of this court passed in WP No 30949 of 2010 dated 29.2.2012 which is as follows.

“Having regard to the facts and circumstances of the case and in the light of the above said judgment of the Apex court, the respondents are directed to regularise the services of the petitioner. It is made clear that it is for the respondents to take appropriate steps to obtain the approval of the Director of Collegiate Education and complete all the formalities within a period of two (2) months from the date of receipt of a copy of this order.

Sri T.Satyanarayana, Lab Attender, Raja Bahadur Venkat Ram Reddy Womens College, Narayanguda, Hyderabad

He was appointed by the management of the college without prior permission of the department on 5.8.1992 with BA Qualification. He filed WP No 19090 of 2011 in the Hon'ble High Court praying for regularisation of his services. The Hon'ble Court on 21.06.2012 in WP No 19090 of 2011 made the following order:-

“It was Contended on behalf of the petitioner that by August 1997, the petitioner had complete five years of continuous service as Laboratory attender in the 3rd respondent college. As observed by the Apex Court in Uma Devi case(sura 3) and subsequently in M L Kesari case , it is made clear that the true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in Uma devi) without protection of any interim order of any court or tribunal in vacant posts possessing the requisite qualification are entitled to be considered for regularisation. The fact that the Government have not taken any steps to regularise the services of the petitioner on par with the similarly situated employees. When it is not in dispute that the petitioner is appointed against an aided post and he has been continuously working from 5.8.1992 i.e. for about 18 years, the Government instrumentalities which should be model employers, should consider the plight of such employees working in aided posts and should have formulated one time settlement scheme as per the directions in Uma Devi's case as referred above. In the absence of any such further schemes, the state is bound to follow the directions as referred to in the case of ML Kesari . Anyhow since the petitioner seems to have completed five years of service by 5.8.1997, the petitioner is entitled to the relief claimed by him since his case comes with the exceptions of para 5(i) and (ii) as explained in M L Kesari case.

The respondents are directed to regularise the services of the petitioner with effect from 05.08.1992 and rendered all consequential benefits to him.

2. The Commissioner of Collegiate Education, Telangana, Hyderabad has further stated that, the above Orders of the Hon'ble High Court directing to regularise the above 4 employees was challenged by filing Writ Appeals in the Hon'ble High Court. The Hon'ble Court in its common order dated: 26.07.2013 in W.A.No.s 1393/ 2012 and batch has ordered as follows:-

" In view of the rival contentions, it has to be seen that the Writ Petitions have completed more than 15 years of service in their respective posts and all of them possessed requisite qualifications. The learned Single Judge has gone through all the Judgments cited by the learned counsel for the appellants and followed the Judgment in M.L. Kesari case, as such, we do not find any infirmity in the Judgement of the learned single Judge. It has also to be seen that the appellants themselves have regularised the similarly situated employees and also followed the orders in several cases. We also dismissed similar Writ Appeals filed by the appellants in W.A.No. 1470 of 2012 and batch, basing on the orders passed by this Court earlier on the ground that all those orders have been implemented and the Government has also regularised the services of the similarly placed employees and admitted them into Grant-in-Aid posts, now the appellants cannot complain and file these writ appeals only in some cases, while leaving some other cases. The Supreme Court also confirmed the similar orders dated: 05.09.2012 passed by the Division Bench of this Court in W.A.No. 1047 of 2012 in SLP.No. 38336 of 2012 by order dated 07.01.2013. the learned single Judge has considered all the aspects in proper perspective and passed the impugned orders. We also take the same view and confirm the impugned orders "

3. The Commissioner of Collegiate Education, Telangana, Hyderabad has stated that, consequent to the above orders of the Hon'ble High Court dated 27.6.2013 SLP No 29508 to 29511 has been filed against the above orders in the Supreme Court of India and the Apex court dismissed the said SLP's with the following directions:-

"We are not inclined to entertain these Special Leave petitions, which are dismissed. However, the impugned judgment shall not be quoted as a precedent in any other case."

4. While the matter stood thus, the Petitioners have filed CC Nos.1744,1745 & 1746/2012 in the Hon'ble High Court.

5. The Commissioner of Collegiate Education, Telangana State, Hyderabad has further stated that as on date there is only one G. O. in existence wherein persons who have completed 5 years of service as on 25.11.1993 i.e. in terms of G.O.Ms.No. 212, Fin and Planning Deptt., dated: 22.4.1994. As per the said G.O. the petitioners herein have not completed the requisite period of five years of service as on 25.11.1993 and they are not eligible for regularization of their services. However since the Hon'ble Supreme Court has clearly informed that these impugned orders are not to be taken as a precedent in other cases. Hence orders are required regularizing the service of the following employees in the vacancies available in their respective colleges with prospective effect only and requested the Government to issue orders in the matter to avoid further legal complications:-

1. Mohd Naseerudding, Lab Boy, Mumtaz College, Hyderabad
2. Mohd Hyder Ali, Electrician, Mumtaz College, Hyderabad
3. Mohd Murtuza Ali, Lab Boy, Mumtaz College, Hyderabad
4. Sri T Satyanarayana, Attender R B V R R College for (W), Hyderabad.

6. After careful examination of the matter, in order to comply with the orders of the Hon'ble High Court in W.P.No.30949/2010, Dt: 29-2-2012, & in WP No.33372/2010, Dt:25-4-2012 & in WP No.33585/2010 Dt;25-4-2012 and in WP No.19090/2011, Dt:21-6-2012 and since there is no other alternative expect to implement the Hon'ble High Court orders, Government hereby accord permission to the Commissioner of Collegiate Education, Telangana State, Hyderabad for regularization of the services of the following employees in the vacancies available in their respective colleges with prospective effect only, i.e., from the date of judgment as indicated below, subject to condition that the impugned orders of Hon'ble High Court shall not be quoted as a precedent in any other case:-

SI No	Name of the employee	Regularization of services with effect from
1.	Mohd Naseeruddin Farooqi, Lab Boy, Mumtaz College, Hyderabad	Dated:29-02-2012 i.e., High Court orders in WPNo.30949/2010
2.	Mohd Hyder Ali, Electrician, Mumtaz College, Hyderabad	Dated: 25-04-2012 i.e.,High Court orders in WP No.33372/2010
3.	Mohd Murtuza Ali, Lab Boy, Mumtaz College, Hyderabad	Dated: 25-04-2012 i.e., High Court orders in WP No.33585/2010
4.	Sri T Satyanarayana, Attender R B V R R College for (W), Hyderabad	Dated:21-06-2012 i.e., High Court orders in WP No.19090/2011

7. This order issues with the concurrence of the Finance(HRM-II) Department vide their U.O.No.6108/134/A2/HRM-II/14, Dated:10-11-2014.

8. The Commissioner of Collegiate Education, Telangana State, Hyderabad shall take further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

VIKAS RAJ
SECRETARY TO GOVERNMENT

To
The Commissioner of Collegiate Education, Telangana State, Hyderabad.
The Principal, Mumtaz College, Malakpet, Hyderabad.
The Secretary cum Correspondent, Raja Bahadur Venkatarama Reddy Women's College, Narayanaguda, Hyderabad.
Copy to:
The Registrar General, in the High Court of Judicature Telangna State and State Andhra Pradesh Hyderabad (w.r.to C.C.Nos.1744,1745 &1746/2012)
The Addl. Advocate General, Telangana, High Court of Telangana & A.P., Hyderabad.
The Government Pleader for Higher Education(Telangana), High Court of Telangana State and Andhra Pradesh State, Hyderabad.
The P.S. to Hon'ble Chief Minister.
The P.S. to Hon'ble Minister for Education.
The P.S. to Secretary, Higher Education Department.
The Finance (HRM-II) Department
SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER